

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT
ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

Docket Number (Optional)

01-764

First named inventor: Hiroyuki Kawai

Application No.: 10/026,871

Art Unit: 2879

Filed: December 21, 2001

Examiner: Kevin J. Quarterman

Title: Light Permeable Fluorescent Cover for Light Emitting Diode

Attention: Office of Petitions

Mail Stop Petition

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

1. Petition fee

☐ Small entity-fee \$ _____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☒ Other than small entity – fee \$ 1,540.00 (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of _____ (identify type of reply):

- ☐ has been filed previously on _____.
- ☐ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of \$ _____.

- ☐ has been paid previously on _____.
- ☐ is enclosed herewith.

[Page 1 of 2]

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

3. Terminal disclaimer with disclaimer fee

☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity or \$ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

/Ross J. Christie #47492/

Signature

August 1, 2008

Date

Ross J. Christie

Typed or printed name

47,492

Registration Number, if applicable

900 Chapel Street, Suite 1201

Address

(203) 777-6628 Ext. 116

Telephone Number

New Haven, CT 06510-2802

Address

Enclosures: ☒ Fee Payment☒ Reply☐ Terminal Disclaimer Form☒ Additional sheets containing statements establishing unintentional delay☒ Other: Request for Continued Examination**CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]**

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300._____
Date_____
Signature_____
Typed or printed name of person signing certificate

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : HIROYUKI KAWAE ET AL. Confirmation No.: 1848
Serial No. : 10/026,871
Filed : December 21, 2001
TC/A.U. : 2879
Examiner : Kevin J. Quarterman

Docket No. : 01-764
Customer No.: 34704

Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313

STATEMENT ESTABLISHING UNINTENTIONAL DELAY IN SUPPORT OF
PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED
UNINTENTIONALLY UNDER 37 C.F.R. §1.137(b)

Dear Sir:

Applicants present the following Statement Establishing Unintentional Delay in Support of Petition For Revival of an Application For Patent Abandoned Unintentionally under 37 C.F.R. §1.137(b) submitted herewith.

Applicants first became aware of the abandonment of the present application upon receipt of the Notice of Abandonment mailed on April 3, 2006 and received on April 5, 2006 (attached as Exhibit A).

Applicants immediately conducted a telephone interview on April 6, 2006 with Examiner Kevin Quarterman and Examiner Joseph Williams. The Examiners mailed an Interview Summary of the telephone interview on May 10, 2006. The Interview Summary stated in part the following:

"Upon reviewing the case history of the instant application, the Examiner concludes that the instant application was prematurely abandoned. Thus, the Examiner agrees to revive the instant application by withdrawing the Notice of Abandonment mailed April 3, 2006. The Examiner also notes that the finality of the rejected claims will also be withdrawn in an office communication forthcoming." (Interview Summary mailed May 10, 2006, page 3, attached as Exhibit B)

Applicants relied upon the Examiners' statements and believed we were awaiting a new action from the Examiner. Applicants filed a Status Inquiry dated June 11, 2007 respectfully requesting the status of the present application. Applicants remained under the belief a new office communication was being issued based upon the Examiners' statements in the aforementioned Interview Summary.

Applicants now set forth a showing as to how the delay in discovering the abandoned status of the present application occurred despite Applicants exercising due care and diligence.

Applicants timely filed an Amendment after Final under 37 C.F.R. §1.116 along with a new Declaration by the inventors on February 4, 2004 (attached as Exhibit C) in response to the Final Office action mailed December 4, 2003. The new Declaration was filed to establish the present application as a Continuation-in-part of co-pending U.S. Pat. Appl. Serial No. 09/597,038, issued as U.S.P.N. 6,472,765. An Advisory action was mailed on February 25, 2004 (attached as Exhibit D)

indicating the new Declaration was considered but was deemed ineffective to overcome the cited reference JP 2000-022216 to Sano, since the Declaration was not timely submitted as set forth in 37 C.F.R. §1.78(2)(ii). Applicants filed a Petition for Unintentionally Delayed Claim under 37 C.F.R. §1.78(a)(2) on March 3, 2004 (attached as Exhibit E) to consider and enter the new Declaration, and establish the Continuation-in-part status of the present application as required by 35 U.S.C. §120 and 37 C.F.R. §1.78(a)(2). As of June 4, 2004, Applicants had not yet received a decision on the aforementioned Petition filed. Applicants filed a Notice of Appeal with a Request for an Extension of Time of three (3) months on June 4, 2004 (attached as Exhibit F). The Office of Petitions granted Applicants' aforementioned Petition in a Decision on Petition under 37 C.F.R. §1.78(a)(3), including a Corrected Filing Receipt, dated July 15, 2004 (attached as Exhibit G). The Decision on Petition stated in part the following:

"This application is being forwarded to Technology Center Art Unit * for appropriate action on the Amendment after Final filed February 6, 2004, including consideration by the Examiner of Applicant's entitlement to claim benefit of priority under 35 U.S.C. §120 to the prior-filed non-provisional applications."

Applicants were under the belief the Examiner would reconsider the aforementioned Amendment after Final and new Declaration by

the inventors filed on February 6, 2004 in light of the Decision on Petition dated July 15, 2004.

Applicants filed a first Status Inquiry on February 16, 2005 and requested the status of the present application in view of the aforementioned Decision on Petition. In complying with their duty of disclosure, Applicants filed an Information Disclosure Statement on June 15, 2005. Applicants filed a second Status Inquiry on July 26, 2005. In complying with their duty of disclosure, Applicants filed an Information Disclosure Statement on September 19, 2005. Applicants filed a third Status Inquiry on February 7, 2006. Applicants submit herewith a copy of the Bibliographic Data for the present application from Private PAIR dated July 30, 2008 (attached as Exhibit H) indicating the filing of the aforementioned Status Inquiries and Information Disclosure Statements.

Until Applicants received the aforementioned Notice of Abandonment mailed on April 3, 2006 (See Exhibit A), Applicants were under the belief we were awaiting a new Office communication from the Examiner according to the aforementioned Decision on Petition (see Exhibit G). And, Applicants continued to prosecute the present application and exercised due care and diligence as evidenced by filing three Status Inquiries and two Information Disclosure Statements (See Exhibit H).

As discussed above, Applicants immediately conducted a telephone interview on April 6, 2006 with Examiner Kevin Quarterman and Examiner Joseph Williams upon receipt of the Notice of Abandonment (See Exhibits A and B). And, Applicants relied upon the Examiners' statements and believed we were awaiting a new action from the Examiner, which was consistent with the remarks in the Decision on Petition (See Exhibit G).

Applicants subsequently filed a Status Inquiry dated June 11, 2007 respectfully requesting the status of the present application (See Exhibit H). Applicants called Examiner Kevin Quarterman on October 8, 2007 and left a voicemail inquiring when a new Office communication would be issued. Applicants did not receive a reply from Examiner Quarterman. Applicants called Examiner Quarterman again on March 19, 2008 and left another voicemail inquiring when a new Office communication would be issued. On the same day, Applicants called his supervisor of record, but received an automated message that the supervisor's telephone number was out of service. Applicants called Examiner Quarterman on July 22, 2008 and left yet another voicemail inquiring when a new Office communication would be issued. On the same day, Applicants also called his new supervisor Examiner Patel and left a voicemail inquiring when a new Office communication would be issued. On July 22, Examiner Quarterman

returned Applicants' telephone message and indicated he needed to discuss the status of the present application with his supervisor. Applicants have not heard from Examiner Quarterman or Examiner Patel since this conversation.

Applicants have remained under the belief a new office communication was being issued based upon the Examiners' statements in the aforementioned Interview Summary. Applicants continued to prosecute the present application as evidenced by complying with their duty of disclosure and filing the aforementioned Information Disclosure Statements. Applicants did not deliberately permit the present application to go abandoned, or choose a course of action to delay prosecution and payment of fees, or choose a course of action which Applicants later reconsidered after changing its mind. Applicants contend they have exercised due care and diligence throughout the prosecution of the present application.

Applicants respectfully request the Office of Petitions grant the Petition for Revival of an Application for Patent Abandoned Unintentionally under 37 C.F.R. §1.137(b).

If any fees are required in connection with this case, it is respectfully requested that they be charged to Deposit Account No. 02-0184.

Respectfully submitted,

HIROYUKI KAWAE ET AL.

By /Ross J. Christie #47,492/
Ross J. Christie
Attorney for Applicants
Reg. No.: 47,492

Telephone: 203-777-6628
Telefax: 203-865-0297

Date: August 1, 2008



UNITED STATES PATENT AND TRADEMARK OFFICE

EXHIBIT A

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/026,871	12/21/2001	Hiroyuki Kawai	01-764	1848

7590 04/03/2006

Gregory P. LaPointe
BACHMAN & LaPOINTE, P.C.
900 Chapel Street, Suite 1201
New Haven, CT 06510-2802

EXAMINER

QUARTERMAN, KEVIN J

ART UNIT	PAPER NUMBER
----------	--------------

2879

DATE MAILED: 04/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Notice of Abandonment

Application No.

10/026,871

Examiner

Kevin Quarterman

Applicant(s)

KAWAE ET AL.

Art Unit

2879

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--


This application is abandoned in view of:

1. ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on 04 December 2003.
 - (a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
 - (b) ☒ A proposed reply was received on 06 February 2004, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.

(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
 - (c) ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
 - (d) ☐ No reply has been received.
2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
 - (a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
 - (b) ☐ The submitted fee of \$_____ is insufficient. A balance of \$_____ is due.

The issue fee required by 37 CFR 1.18 is \$_____. The publication fee, if required by 37 CFR 1.18(d), is \$_____.
 - (c) ☐ The issue fee and publication fee, if applicable, has not been received.
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
 - (a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
 - (b) ☐ No corrected drawings have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☐ The reason(s) below:




JOSEPH WILLIAMS
PRIMARY EXAMINER

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.



UNITED STATES PATENT AND TRADEMARK OFFICE

EXHIBIT B

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/026,871	12/21/2001	Hiroyuki Kawae	01-764	1848

7590 05/10/2006

Gregory P. LaPointe
BACHMAN & LaPOINTE, P.C.
900 Chapel Street, Suite 1201
New Haven, CT 06510-2802

EXAMINER

QUARTERMAN, KEVIN J

ART UNIT PAPER NUMBER

2879

DATE MAILED: 05/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Interview Summary	Application No.	Applicant(s)	
	10/026,871	KAWAE ET AL.	
	Examiner	Art Unit	
	Kevin Quarterman	2879	

All participants (applicant, applicant's representative, PTO personnel):

- (1) Kevin Quarterman. (3) Gregory LaPointe.
 (2) Joseph Williams. (4) _____.

Date of Interview: 06 April 2006.

Type: a) ☒ Telephonic b) ☐ Video Conference
 c) ☐ Personal [copy given to: 1) ☐ applicant 2) ☒ applicant's representative]

Exhibit shown or demonstration conducted: d) ☐ Yes e) ☒ No.
 If Yes, brief description: _____.

Claim(s) discussed: all.

Identification of prior art discussed: JP 2000-22216A (Sano).


Agreement with respect to the claims f) ☐ was reached. g) ☐ was not reached. h) ☒ N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: See Continuation Sheet.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN A NON-EXTENDABLE PERIOD OF THE LONGER OF ONE MONTH OR THIRTY DAYS FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.


 Examiner's signature, if required

Summary of Record of Interview Requirements

Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record

A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews

Paragraph (b)

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135. (35 U.S.C. 132)

37 CFR §1.2 Business to be transacted in writing.

All business with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiners Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:

- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case. It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

A complete and proper recordation of the substance of any interview should include at least the following applicable items:

- 1) A brief description of the nature of any exhibit shown or any demonstration conducted,
- 2) an identification of the claims discussed,
- 3) an identification of the specific prior art discussed,
- 4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner,
- 5) a brief identification of the general thrust of the principal arguments presented to the examiner,
(The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
- 6) a general indication of any other pertinent matters discussed, and
- 7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

Examiner to Check for Accuracy

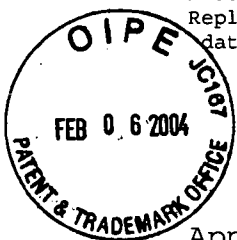
If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.

Continuation of Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: Upon reviewing the case history of the instant application, the Examiner concludes that the instant application was prematurely abandoned. Thus, the Examiner agrees to revive the instant application by withdrawing the Notice of Abandonment mailed 03 April 2006. The Examiner also notes that the finality of the rejected claims will also be withdrawn in an office communication forthcoming. The Examiner sincerely apologizes to applicant for the inconveniences absorbed throughout this ordeal.

Appln. No. 10/026,871
Amdt. Dated 02/04/2004
Reply to Final Action
dated 12/04/2003

Image AF

EXHIBIT C



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Hiroyuki Kawae et al. Confirmation No.: 1848
Serial No. : 10/026,871
Filed : December 21, 2001
TC/A.U. : 2879
Examiner : K. Quarterman

Docket No. : 01-764
Customer No. : 34704

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313

AMENDMENT UNDER 37 C.F.R. 1.116

Sir:

In response to the Office action dated December 4, 2003
having a shortened statutory period for response set to expire
March 4, 2004, please amend the above-identified application as
follows.

Amendments to the Specification are reflected on page 2 of this
paper.

Remarks/Arguments begin on Page 3 of this paper.

Amendments to the Specification

Page 1, after the title and before BACKGROUND OF THE INVENTION please insert the following:

CROSS-REFERENCE TO RELATED APPLICATION

The instant application is a continuation-in-part of U.S. Application Serial No. 09/597,038 filed June 20, 2000 and which issued on October 29, 2002 as U.S. Patent No. 6,472,765.

Remarks/Arguments

Applicant submits concurrently herewith a new Declaration signed by the inventors. Applicant has amended the instant application so as to cross-reference that the instant application is a continuation-in-part of co-pending Application Serial No. 09/597,038, now U.S. Patent 6,472,765.

Applicant has filed concurrently herewith a new Declaration establishing for the continuation-in-part. By filing the enclosed Declaration and claiming C-I-P status, Applicant has removed Sano JP 200002216 as a prior art reference. Accordingly, it is respectfully submitted that all of the claims as pending are in condition for allowance and an early indication of same is respectfully requested.

An earnest and thorough attempt has been made by the undersigned to resolve the outstanding issues in this case and place same in condition for allowance. If the Examiner has any questions or feels that a telephone or personal interview would be helpful in resolving any outstanding issues which remain in this application after consideration of this amendment, the Examiner is courteously invited to telephone the undersigned and the same would be gratefully appreciated.

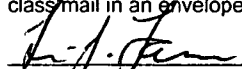
If any additional fees are required in connection with this case, it is respectfully requested that they be charged to Deposit Account No. 02-0184.

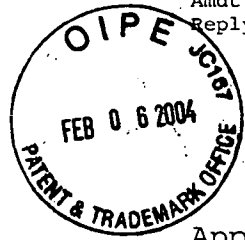
Respectfully submitted,

By _____
Gregory P. LaPointe
Attorney for Applicant
Reg. No. 28,395

Date: February 4, 2004

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: "Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313" on Feb. 4, 2004.


Lori J. Larson



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Hiroyuki Kawae et al. Confirmation No.: 1848
Serial No. : 10/026,871
Filed : December 21, 2001
TC/A.U. : 2879
Examiner : K. Quarterman
Docket No. : 01-764
Customer No. : 34704

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313

SUBMISSION OF NEW DECLARATION

Sir:

Applicant submits herewith a new Declaration signed by the inventors establishing the instant application as a continuation-in-part of U.S. Application Serial No. 09/597,038 filed June 20, 2000 and which issued on October 29, 2002 as U.S. Patent No. 6,472,765.

If any additional fees are required in connection with this case, it is respectfully requested that they be charged to Deposit Account No. 02-0184.

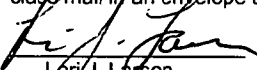
Respectfully submitted,

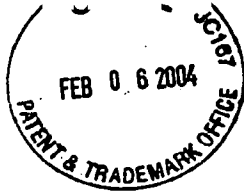
By

Gregory P. LaPointe
Attorney for Applicant
Reg. No. 28,395

Date: February 4, 2004

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: "Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313" on Feb. 4, 2004.


Lori J. Larson



Practitioner's Docket No. 01-764

PATENT

COMBINED DECLARATION AND POWER OF ATTORNEY

(ORIGINAL, DESIGN, NATIONAL STAGE OF PCT, SUPPLEMENTAL, DIVISIONAL,
CONTINUATION, OR C-I-P)

As a below named inventor, I hereby declare that:

TYPE OF DECLARATION

This declaration is of the following type: ☐ original.

(check one)

☐ design.

☐ supplemental.

☐ national stage of PCT.

☐ divisional.

☐ continuation.

☒ continuation-in-part (C-I-P)

INVENTORSHIP IDENTIFICATION

My residence, post office address and citizenship are as stated below, next to my name. I believe that I am the original, first and sole inventor (*if only one name is listed below*) or an original, first and joint inventor (*if plural names are listed below*) of the subject matter that is claimed, and for which a patent is sought on the invention entitled:

A LIGHT PERMEABLE FLUORESCENT COVER FOR LIGHT EMITTING DIODE

SPECIFICATION IDENTIFICATION

the specification of which:

(a) ☐ is attached hereto.

(b) ☒ was filed on December 21, 2001 as Serial No. 10/028,871 and was amended on _____ (*if applicable*).

(c) ☐ was described and claimed in PCT International Application No. _____, filed on _____, and as amended under PCT Article 19 on _____ (*if applicable*).

ACKNOWLEDGEMENT OF REVIEW OF PAPERS AND DUTY OF CANDOR

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information, which is material to patentability as defined in 37, Code of Federal Regulations, § 1.56, and which is material to the examination of this application, namely, information where there is a substantial likelihood that a reasonable Examiner would consider it important in deciding whether to allow the application to issue as a patent, and

- ☐ in compliance with this duty, there is attached an information disclosure statement, in accordance with 37 C.F.R. § 1.98.

PRIORITY CLAIM

I hereby claim foreign priority benefits under Title 35, United States Code, §§ 119(a)-(d) of any foreign application(s) for patent or inventor's certificate or of any PCT international application(s) designating at least one country other than the United States of America listed below and have also identified below any foreign application(s) for patent or inventor's certificate or any PCT international application(s) designating at least one country other than the United States of America filed by me on the same subject matter having a filing date before that of the application(s) of which priority is claimed. Such applications have been filed as follows:

**PRIOR FOREIGN/PCT APPLICATION(S) FILED WITHIN 12 MONTHS
(6 MONTHS FOR DESIGN) PRIOR TO THIS APPLICATION
AND ANY PRIORITY CLAIMS UNDER 35 U.S.C. § 119(a)-(d)**

COUNTRY (OR INDICATE IF PCT)	APPLICATION NO.	DATE OF FILING (day, month, year)	PRIORITY CLAIMED UNDER 37 USC 119
Japan	2000-391457	22 December 2000	YES
			YES/NO
			YES/NO
			YES/NO
			YES/NO

POWER OF ATTORNEY

I hereby appoint the practitioners practicing at the following Customer Number to prosecute this application and transact all business in the Patent and Trademark Office connected therewith.

34704

34704

PATENT TRADEMARK OFFICE

SEND CORRESPONDENCE TO:

The above Customer Number.

DIRECT TELEPHONE CALLS TO:

Gregory P. LaPointe
(203) 777-6628 - ext. 111

DECLARATION

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

SIGNATURE(S)

Full name of sole or first inventor:

Hiroyuki Kawae
(signature)

Name: Hiroyuki Kawae

Date: January 14, 2004

Country of Citizenship: Japan

Residence Address:

6-3, Kitano 3-chome
Niiza-shi, Saitama-pref. 352-8666
Japan

Post Office Address: (SAME AS ABOVE)

Full name of second joint inventor, if any:

Takeshi Sano
(signature)

Name: Takeshi Sano

Date: January 14, 2004

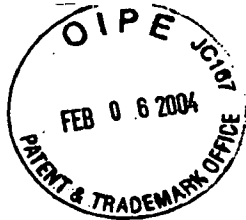
Country of Citizenship: Japan

Residence Address:

6-3, Kitano 3-chome
Niiza-shi, Saitama-pref. 352-8666
Japan

Post Office Address: (SAME AS ABOVE)

THIS DECLARATION ENDS WITH THIS PAGE.



Practitioner's Docket No. 01-764

**ADDED PAGE TO COMBINED DECLARATION
AND POWER OF ATTORNEY FOR DIVISIONAL, CONTINUATION
OR C-I-P APPLICATION**

(complete this part only if this is a divisional, continuation or C-I-P application)

**CLAIM FOR BENEFIT OF EARLIER U.S./PCT APPLICATION(S)
UNDER 35 U.S.C. 120**

I hereby claim the benefit, under Title 35, United States Code, § 120, of any United States application(s) or PCT international application(s) designating the United States of America that is/are listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in that/those prior application(s) in the manner provided by the first paragraph of Title 35, United States Code, § 112, I acknowledge the duty to disclose information that is material to patentability as defined in 37, Code of Federal Regulations, § 1.56 and that is material to the examination of this application, namely, information where there is a substantial likelihood that a reasonable examiner would consider it important in deciding whether to allow the application to issue as a patent, that occurred between the filing date of the prior application(s) and the national or PCT international filing date of this application. (37 C.F.R. § 1.63(e)).

☐ In compliance with this duty, there is attached an information disclosure statement, in accordance with 37 C.F.R. § 1.98.

PRIOR U.S. APPLICATIONS OR PCT INTERNATIONAL APPLICATIONS DESIGNATING THE U.S. FOR BENEFIT UNDER 35 USC 120:				
U.S. APPLICATIONS		Status (check one)		
U.S. Applications	U.S. Filing Date	Patented	Pending	Abandoned
09 / 597,038	June 20, 2000	Oct. 29, 2002		
/				
/				
PCT APPLICATIONS DESIGNATING THE U.S.				
PCT Application No.	PCT Filing Date	U.S. Application Nos. Assigned (if any)		
		/		
		/		
		/		

**35 USC § 119 PRIORITY CLAIM, IF ANY,
FOR ABOVE LISTED U.S./PCT APPLICATIONS**

ABOVE APPLICATION NO.	DETAILS OF U.S. PROVISIONAL OR FOREIGN APPLICATION FROM WHICH PRIORITY CLAIMED UNDER 35 USC § 119		
Please indicate appropriate PCT application no.	Country and Application No.	Date of filing (day, month, year)	Date of issue (day, month, year)



UNITED STATES PATENT AND TRADEMARK OFFICE

EXHIBIT D

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/026,871	12/21/2001	Hiroyuki Kawae	01-764	1848

7590 02/25/2004
Gregory P. LaPointe
BACHMAN & LaPOINTE, P.C.
900 Chapel Street, Suite 1201
New Haven, CT 06510-2802

EXAMINER

QUARTERMAN, KEVIN J

ART UNIT	PAPER NUMBER
----------	--------------

2879

DATE MAILED: 02/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

10/026,871

Applicant(s)

KAWAE ET AL.

Examiner

Kevin Quarterman

Art Unit

2879

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 06 February 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☒ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: _____.

Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____


ASHOK PATEL
PRIMARY EX

Continuation of 5. does NOT place the application in condition for allowance because: The declaration filed on 06 February 2004 under 37 CFR 1.131 has been considered but is ineffective to overcome the Sano (JP 2000022216) reference, since the declaration was NOT timely submitted as set forth in 37 CFR § 1.78(2)(ii).

A handwritten signature in black ink, appearing to be 'H2' or similar, located below the text block.



image

\$ DAE

EXHIBIT E

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : HIROYUKI KAWAE ET AL. Confirmation No.: 01-764
Serial No. : 10/026,871
Filed : December 21, 2001
TC/A.U. : 2879
Examiner : Kevin J. Quarterman

Docket No. : 01-764
Customer No.: 34704

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313

PETITION FOR UNINTENTIONALLY DELAYED CLAIM UNDER 37 CFR 1.78(a)(2)

Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Applicant hereby requests that the Declaration previously submitted by Applicant on February 6, 2004 under 37 CFR 1.78 be considered and entered as the entire time delay for making the submission between the date that the claim for CIP status was due and the date the claim was filed was unintentional.

The reference to CIP status required by 35 USC 120 and 37 CFR 1.78(a)(2) was previously made in Applicants' Declaration filed on February 6, 2004;

A check in the amount of \$1,330.00 to cover the petition fee under 37 CFR 1.17(t) is enclosed.

If any additional fees are required in connection with this case, it is respectfully requested that they be charged to Deposit Account No. 02-0184.

Respectfully submitted,

HIROYUKI KAWAE ET AL.

By

Gregory P. LaPointe
Attorney for Applicants
Reg. No. 28,395

03/09/2004 AWONDAF1 00000089 10026871

01 FC:1454

1330.00 OP

Date: March 3, 2004

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: "Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313" on March 3, 2004.

Lori J. Larson

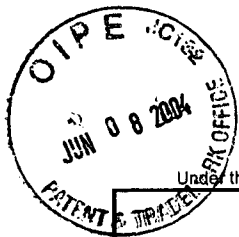


EXHIBIT F

PTO/SB/31 (08-03)

Approved for use through 07/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

NOTICE OF APPEAL FROM THE EXAMINER TO
THE BOARD OF PATENT APPEALS AND INTERFERENCES

Docket Number (Optional)

01-764

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" on June 4, 2004

Signature

Typed or printed name Lori J. Larson

In re Application of

Hiroyuki Kawae et al.

Application Number

10/026,871

Filed

Dec. 21, 2001

For A LIGHT PERMEABLE FLUORESCENT...

Art Unit 3879

Examiner K.J. Quarterman

Applicant hereby **appeals** to the Board of Patent Appeals and Interferences from the last decision of the examiner.

The fee for this Notice of Appeal is (37 CFR 1.17(b))

\$ 330.00

- ☐ Applicant claims small entity status. See 37 CFR 1.27. Therefore, the fee shown above is reduced by half, and the resulting fee is: \$ _____
- ☒ A check in the amount of the fee is enclosed.
- ☐ Payment by credit card. Form PTO-2038 is attached.
- ☐ The Director has already been authorized to charge fees in this application to a Deposit Account. I have enclosed a duplicate copy of this sheet.
- ☒ The Director is hereby authorized to charge any fees which may be required, or credit any overpayment to Deposit Account No. 02-0184. I have enclosed a duplicate copy of this sheet.
- ☒ A petition for an extension of time under 37 CFR 1.136(a) (PTO/SB/22) is enclosed.

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

I am the

- ☐ applicant/inventor.
- ☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)
- ☒ attorney or agent of record. 28,395
Registration number
- ☐ attorney or agent acting under 37 CFR 1.34(a).
Registration number if acting under 37 CFR 1.34(a) _____

Signature
Gregory P. LaPointe
Typed or printed name(203) 777-6628
Telephone numberJune 4, 2004
Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☒ *Total of 2 forms are submitted.

This collection of information is required by 37 CFR 1.191. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

06/09/2004 SMINASS1 00000002 10026871

02 FC:1401

330.00 0P



AF/2879
✓
I/m

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : HIROYUKI KAWAE ET AL. Confirmation No.: 01-764
Serial No. : 10/026,871
Filed : December 21, 2001
TC/A.U. : 2879
Examiner : Kevin J. Quarterman

Docket No. : 01-764
Customer No.: 34704

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313

REQUEST FOR EXTENSION OF TIME

Dear Sir:

Applicant hereby requests a three month extension of time in the above-identified case so as to extend the period for filing a Notice of Appeal to expire on June 4, 2004.

Applicant encloses herewith a check in the amount of \$1,280.00 to cover the fee for filing this three month extension of time.

If any additional fees are required in connection with this case, it is respectfully requested that they be charged to Deposit Account No. 02-0184.

06/09/2004 SMINASS1 00000002 10026871

01 FC:1253

950.00 OP

Respectfully submitted,

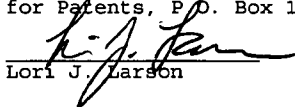
HIROYUKI KAWAE ET AL.

By

Gregory P. LaPointe
Attorney for Applicants
Reg. No. 28,395

Date: June 4, 2004

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: "Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313" on June 4, 2004.


Lori J. Larson



UNITED STATES PATENT AND TRADEMARK OFFICE

EXHIBIT G

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Gregory P. LaPointe
BACHMAN & LaPOINTE, P.C.
900 Chapel Street, Suite 1201
New Haven CT 06510-2802

COPY MAILED

JUL 15 2004

OFFICE OF PETITIONS

In re Application of
Kawae et al.
Application No. 10/026,871
Filed: December 21, 2001
Attorney Docket No. 01-764

:
:
: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3)
:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed march 5, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed February 6, 2004.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

- (1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
- (2) the surcharge set forth in § 1.17(t); and
- (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending application was filed on December 21, 2001, and was pending at the time of filing of the instant petition. A reference to the prior-filed nonprovisional applications has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(2)(iii).

The instant nonprovisional application was filed after November 29, 2000, and the claim herein

for the benefit of priority to the prior-filed nonprovisional applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the prior-filed nonprovisional applications was submitted during the pendency of the instant nonprovisional application, for which the claim for benefit of priority is sought. See 35 U.S.C. § 120. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed applications, or that the proposed amendment has been entered in this finally rejected application. See MPEP 201.11, section III(F), which notes that the emendment is not entered as a matter of right and entry may require an RCE. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional applications, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (703) 305-1820..

This application is being forwarded to Technology Center Art Unit * for appropriate action on the amendment after final filed February 6, 2004, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications.



Brian Hearn
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
 United States Patent and Trademark Office
 Address: COMMISSIONER FOR PATENTS
 P.O. Box 1450
 Alexandria, Virginia 22313-1450
 www.uspto.gov

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY. DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/026,871	12/21/2001	2879	740	01-764	8	14	1

Gregory P. LaPointe
 BACHMAN & LaPOINTE, P.C.
 900 Chapel Street, Suite 1201
 New Haven, CT 06510-2802

CONFIRMATION NO. 1848
CORRECTED FILING RECEIPT
OC000000013239966
 OC000000013239966

Date Mailed: 07/15/2004

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Applicant(s)

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Domestic Priority data as claimed by applicant

This application is a CIP of 09/597,038 06/20/2000 PAT 6,472,765

Foreign Applications

JAPAN P2000-391457 12/22/2000
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If Required, Foreign Filing License Granted: 02/05/2002

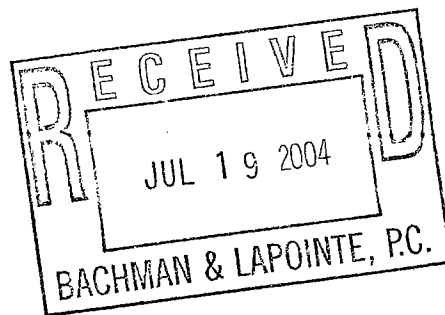
Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Light permeable fluorescent cover for light emitting diode



Preliminary Class

313

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EXHIBIT H

10/026,871 Light permeable fluorescent cover for light emitting diode

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Bibliographic Data

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